

Federal Defenders  
OF NEW YORK, INC.

Southern District  
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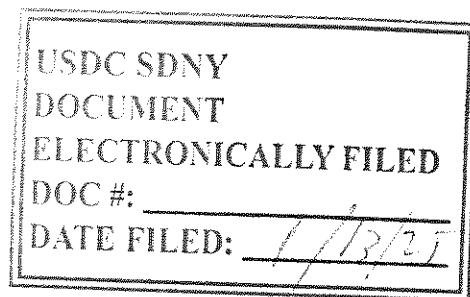
Tamara Griwa  
*Executive Director and  
Attorney-in-Chief*

## MEMO ENDORSED

*Southern District of New York  
Jennifer L. Brown  
Attorney-in-Charge*

December 13, 2024

Hon. Lewis A. Kaplan  
United States District Judge  
Southern District of New York  
United States Courthouse  
500 Pearl Street  
New York, New York 10007



Re: **United States v. Sony Estevez Pimentel**  
**24 Cr. 570 (LAK)**

Your Honor:

Pursuant to Rule 12(b)(B) of the Federal Rules of Criminal Procedure, Mr. Pimentel moves to dismiss Counts 1 and 2 of the Indictment, each count alleging a violation of Title 18, U.S.C. §922 (o). Both counts of the Indictment must be dismissed because the Second Amendment of the United States Constitution does not permit a blanket prohibition on machine guns. The statutory allegations, as applied to Mr. Pimentel, are unconstitutional because they do not allege any conduct other than the possession and transfer of a machine gun and the history of firearms regulations do not reach such conduct.

### The Indictment's Allegations

Mr. Pimentel is charged with conspiring to possess and transfer a machine gun and with possessing and transferring a machine gun, both in violation of Title 18, U.S.C. Sec. 922(o). Section 922(o) imposes a blanket prohibition on the possession and/or transfer of a machine gun. A machine gun is defined in Title 26, U.S.C. § 5845 as "an weapon which shoots....automatically more than one shot, without manual reloading, by a single function of the trigger.....includ[ing] any part designed and intended solely and exclusively....for use in converting a weapon into a machine gun."

*Devised.*  
**SO ORDERED**

*[Signature]*  
**LEWIS A. KAPLAN, USDJ**

*1/13/25*